BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Streamlining the International	)	**IB Docket No. 95-118**
Section 214 Authorization Process	)	
and Tariff Requirements	)	

COMMENTS OF AMERICA'S CARRIERS TELECOMMUNICATION ASSOCIATION (ACTA) ON THE RESPONSE TO INITIAL REGULATORY FLEXIBILITY ANALYSIS NOTICE OF PROPOSED RULE MAKING FCC 95-286 Released July 17, 1995

America's Carriers Telecommunications Association (ACTA), by its attorneys, submits these comments in response to the Commission's Initial Regulatory Flexibility Analysis, in connection with the Notice of Proposed Rule Making, FCC 95-286, released July 17, 1995 (NPRM), in the above-captioned docket. ACTA is a trade association representing independent interexchange carriers, operator service providers, and other entities serving the communications needs of the American residential and small business community.

ACTA supports the initiatives of the Commission in seeking to reduce unnecessary regulation and to streamline the regulation required to serve the interests of the public. ACTA has filed comments, therefore, in support of the amendments to Sections 63.01 and 63.15 of the Commission's rules to grant broad authority to facilities-based carriers, subject to an exclusion list of countries, which for diplomatic purposes or other reasons of national security or defense should not be routinely included in a carrier's service authority. ACTA also supports the other procedural changes that would implement a lessening of the regulations over international services. While ACTA gladly supports the efforts of the Commission to reduce regulation

shown to be unnecessary, ACTA remains concerned that a critically important area affected by the degree and extent of deregulatory efforts remains unaddressed.

The area of concern deals with issues arising under the Regulatory Flexibility Act and the Commission's duty to consider the impact on small businesses that may arise from its adoption of new or amended regulations. While the positive side of the Commission's proposals will decrease regulatory burdens on the smaller carriers which comprise a significant portion of ACTA's membership, there is a consistently overlooked aspect to these deregulatory initiatives that directly and substantively affects the rights of small business entities to compete in the telecommunications marketplace.

The telecommunications market is characterized by huge companies which dominate, and are challenged, if at all, by their smaller rivals only on a limited basis. Moreover, the largest carrier is or should be known and recognized for its anticompetitive practices over this century and its antipathy toward resale.

When traditional regulatory controls are necessarily displaced as antiquated and outmoded, and competition is substituted for these earlier regulations, it is incumbent on the Commission to focus on the meaning of the changes it is bringing about for all those affected by such changes. Where rote review of applications and tariffs no longer serve as meaningful restraints against unreasonable practices, excessive rates or charges or other predatory practices, a sane substitute must be found to remedy any abuses which occur.

In addition, those remedies must avoid being as potentially debilitating to effective competition as the predatory practices against which they are to protect. In short, effective enforcement which is both prompt and effective is critical to survival of the smaller competitors

in the industry. Present complaint and tariff processes favor the established carriers if for no other reason than they have the unlimited resources to "litigate" their smaller competitors into oblivion. Commercial arbitration and/or the Alternative Dispute Resolution proceedings of the Commission are but partial answers and too often suffer from the same deficiencies as more "formal" proceedings in the ability of large companies to manipulate to their advantage. Indeed, experience demonstrates that arbitration is defined by the party with the advantages of greater size, resources and/or facilities control as a blatant demand to comply with that party's demands, leaving nothing of substance to "arbitrate," mediate or negotiate.

The Commission is not responsible for the nature of today's telecommunications oligopolistic form of marketplace. But it is responsible, as it moves toward lessening the traditional forms of regulation, to substitute, in their stead, rational policies to assure, insofar as possible, the realistic achievement of the duties and goals Congress set forth over 60 years ago when it enacted the Communications Act. Small competitors need a fair, unbiased and competent forum to air their grievances and to obtain justice. The Commission is in the forefront and the preferred forum before which to seek these rights.

Respectfully submitted,

America's Carriers Telecommunication Association

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